

SS SB 34 -- INFORMED CONSENT FOR ABORTION

SPONSOR: Loudon (Holand)

COMMITTEE ACTION: Voted "do pass" by the Committee on Health Care Policy by a vote of 10 to 2.

This substitute prohibits a person from intentionally causing, aiding, or assisting a minor to obtain an abortion without the informed consent required by Section 188.028, RSMo. Any person who violates this provision will be civilly liable to persons adversely affected by the action.

If civil liability is established, a court may award damages up to \$1,000, including attorney fees and court costs, to any person adversely affected by a violation of the substitute. In addition, a court may award punitive damages.

The substitute does not allow a defense to a claim which asserts that the abortion was performed in accordance with the required consent of the state or place where the abortion was performed. The substitute also contains a provision which prohibits an unemancipated minor from having the capacity to consent to any action in violation of the substitute or Section 188.028.

A court may enjoin conduct in violation of the substitute upon a petition by the Attorney General, a prosecuting attorney or circuit attorney, or a person adversely affected or who may be adversely affected. In order for a court to enjoin any violation, the substitute requires that there must be a showing that such conduct has occurred in the past and it is not unreasonable to expect that such conduct will be repeated or that such conduct is reasonably anticipated to occur in the future.

FISCAL NOTE: No impact on state funds.

PROPONENTS: Supporters say that the substitute is good public policy and creates a civil remedy for persons who are adversely affected by a violation of the parental consent statute for abortion. A physician in another state would be required to obtain the informed consent from an authorized person for a minor born in Missouri before performing an abortion.

Testifying for the bill were Senator Loudon; Campaign Life of Missouri; and Missouri Catholic Conference.

OPPONENTS: Those who oppose the substitute say that it raises a number of legal issues such as medical privacy, the authority to provide consent if a minor is in foster care, and free speech. A majority of Missouri teenagers who seek abortion services outside

Missouri have a parent or guardian actively involved in the decision to provide consent for an abortion.

Testifying against the bill were American Civil Liberties Union of Eastern Missouri; Planned Parenthood of the St. Louis Region; and National Abortion and Reproductive Rights Action League, Missouri Chapter.

Joseph Deering, Legislative Analyst